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October 4, 2021

VIA ECF

Hon. P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: Zohar CDO 2003-I Ltd. v. Patriarch Partners, LLC, No. 17-cv-00307 (S.D.N.Y.)

Dear Judge Castel:

I write as counsel for Defendants/Counterclaimants/Third-Party Plaintiffs (collectively, “Patriarch”) in this action to seek clarification concerning an aspect of the Court’s recent *Opinion and Order* partially granting and partially denying the Third-Party Defendants’ motions to dismiss. Dkt. 214 (the “Order”).

In its motion papers, Patriarch requested that “any dismissal should be without prejudice to allow Patriarch to amend its Third-Party Complaint.” Dkt. 197 at 79. Each of the Third-Party Defendants, conversely, requested that any dismissal be made with prejudice. *See* Dkts. 182 at 1, 25; 186 at 1, 25; 192 at 6, 12; 200 at 1, 10. The Order, however, does not specify whether those claims that were dismissed were dismissed with or without prejudice.

In light of Federal Rule of Civil Procedure 15(a)(2)’s exhortation that federal courts “should freely give leave [to amend a pleading] when justice so requires,” and the fact that this would be Patriarch’s first amendment of its Third-Party Complaint, Patriarch respectfully requests the Court’s clarification as to whether it would allow submission of a motion for leave to amend the Third-Party Complaint to address issues raised by the Order. Patriarch respectfully submits that it should be permitted to make such a motion.

Respectfully,

/s/ Akiva Shapiro

Akiva Shapiro

cc: Counsel of Record